



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 06024-99
2 December 1999

MSGT [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]

Dear Master Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 22 September 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board was unable to find you were not counseled concerning your performance. In any event, they generally do not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6024-99

IN REPLY REFER TO:
1610
MMER/PERB
SEP 22 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
MASTER SERGEANT [REDACTED] USMC

Ref: (a) MSgt. [REDACTED] D Form 149 of 8 Jun 99
(b) MCO P1610.7C w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 14 September 1999 to consider Master Sergeant [REDACTED] petition contained in reference (a). Removal of the Reviewing Officer's comments appended to the fitness report for the period 931101 to 940524 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the comments made by Colonel [REDACTED] not only fail to reflect his actual performance, but were made without full knowledge of all the events and circumstances during the reporting period. In support of his appeal, the petitioner furnishes his own detailed statement and a copy of an e-mail response he received from Colonel [REDACTED].

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. Notwithstanding the petitioner's insight into the events that transpired during the reporting period, the Board is simply not persuaded or convinced that Colonel [REDACTED] comments represent anything other than his fair, objective, and duly considered evaluation. In this regard, the Board finds that the petitioner has failed to meet the burden of proof necessary to establish the existence of either an error or an injustice. The Board also concludes that Colonel [REDACTED] e-mail response to the petitioner (October 2, 1998) in no way infers that he intends to reconsider the remarks he made on the challenged report. Rather, it appears as though Colonel [REDACTED] agreed to prepare a letter to the Promotion Board endorsing the petitioner's qualifications for advancement to the grade of master gunnery sergeant.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the Reviewing Officer's remarks should remain a part of the contested fitness report.

(3) PERB

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5. The case is forwarded for final action.

[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps